

Briefs, Responses and Replies

1:04-cv-01350-GMS Lewis v. Foster

PaperDocuments

129

U.S. District Court

District of Delaware

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The following transaction was entered by Rizzo, Louis on 1/16/2007 at 4:45 PM EST and filed on 1/16/2007

Case Name: Lewis v. Foster

Case Number: 1:04-cv-1350

Filer: Sylvia Foster

Document Number: 129

Docket Text:

RESPONSE to Motion re [124] MOTION for Disclosure *Pursuant to Rule 37* filed by Sylvia Foster. (Rizzo, Louis)

1:04-cv-1350 Notice has been electronically mailed to:

Louis J. Rizzo , Jr lrizzo@rrkdllaw.com

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1:04-cv-1350 Notice has been delivered by other means to:

Jimmie Lewis
SBI#506622
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

The following document(s) are associated with this transaction:

Document description:Main Document

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[STAMP dcecfStamp_ID=1079733196 [Date=1/16/2007] [FileNumber=328444-0]
[24d118783217d823d5ad767898190c47c695ac962c4a220b7439dcc61da910c3a21e
b21f316a8d9883ca2b1ccb278a74f286c3e46edebaf1a0960f54d265b7db]]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,

Plaintiff,

v.

SYLVIA FOSTER, LANCE SAPERS,

DAVE MOFFITT, R. GRAY,

MR. JOHNSON, JOHN JOE,

Defendants.

C.A. No.: 04-1350 (GMS)

**DEFENDANT DR. SYLVIA FOSTER'S RESPONSE TO PLAINTIFF'S
MOTION FOR DISCLOSURE PURSUANT TO RULE 37**

COME NOW, Defendant, Dr. Sylvia Foster, by and through her undersigned counsel and responds to Plaintiff's Motion for Disclosure Pursuant to Rule 37, and in support thereof, avers the following:

1. Plaintiff, Jimmie Lewis, filed the present Motion on January 5, 2007 requesting typed photocopies of handwritten information noted in Plaintiff's prior Motion for Discovery #2.
2. Plaintiff concedes Defendant, Dr. Sylvia Foster, responded to a previous request for discovery materials on September 26, 2006 by producing a packet of medical records reflecting the plaintiff's treatment while at the Delaware Psychiatric Center.
3. Pursuant to Federal Rules of Civil Procedure 34, Dr. Foster provided true and accurate copies of the documentation previously requested by Plaintiff. Said rule does not require a party to type any handwritten information contained on the documents provided.
4. Plaintiff has failed to present any authority to reflect the request which was made. Ultimately, Plaintiff's request is nothing more than an additional request for discovery which is not proper. The Court currently has pending a Motion for Protective Order filed by Defendant,

Dr. Sylvia Foster, to prevent Plaintiff from issuing excessive discovery requests.

4. In the alternative, Plaintiff's request is for interpretation of the handwritten notes, some of which were written by Plaintiff himself. This request is not valid and does not serve any purpose beyond unnecessary expense to accommodate the repeated discovery requests issued by the Plaintiff. As stated above, Federal Rules of Civil Procedure 34 requires true and accurate copies of the documents requested to be provided; not interpretations of the handwritten notes included within the documents.

5. The Court has not ruled on the outstanding Motion for Protective Order. Until a ruling is made on said Motion, Defendant, Dr. Sylvia Foster's position is to refrain from responding to a repeated discovery request submitted by Plaintiff in this case. In the event the Court rules responses are necessary from Defendant, Dr. Sylvia Foster, then efforts will be undertaken to abide by the ruling of the Court.

Therefore, in light of the arguments submitted above and responses thereto, Defendant, Dr. Sylvia Foster, respectfully requests this Honorable Court to deny the Motion for Disclosure Pursuant to Rule 37 filed by Plaintiff.

RESPECTFULLY SUBMITTED,
REGER RIZZO KAVULICH & DARNALL LLP

/s/ Louis J. Rizzo, Jr.

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Dated: 1-16-2007

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,)	
)	
Plaintiff,)	C.A. No.: 04-1350 (GMS)
)	
v.)	
)	
SYLVIA FOSTER, LANCE SAPERS,)	
DAVE MOFFITT, R. GRAY,)	
MR. JOHNSON, JOHN JOE,)	
)	
Defendants.)	

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify on this 16th day of January, 2007 that a true and correct copy of Defendant Dr. Sylvia Foster's Response to Plaintiff's Motion for Disclosure Pursuant to Rule 37 has been served electronically and/or by first class mail, postage prepaid, to the following:

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Dated: 1-16-2007